

# **CALIFORNIA MILITARY DEPARTMENT**

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## **AUDIT REPORT YOUTH PROGRAMS - OAKLAND MILITARY INSTITUTE**

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**Audit Period  
July 1, 2005 to June 30, 2007  
May 2008**

**OFFICE OF THE ADJUTANT GENERAL  
MILITARY DEPARTMENT INTERNAL REVIEW OFFICE**

**California Military Department  
Youth Programs - Oakland Military Institute  
Audit Period: July 1, 2005 to June 30, 2007**

**Office of the Adjutant General  
Military Department Internal Review Office  
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**Report No. IC 07-02**

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**CALIFORNIA MILITARY DEPARTMENT  
Audit of Youth Programs – Oakland Military Institute  
July 1, 2005 to June 30, 2007**

**Executive Summary**



## ***EXECUTIVE SUMMARY***

This report contains the results of the Military Department Internal Review Office's (MDIRO) audit of the Youth Programs Directorate's (YPD) Oakland Military Institute (OMI) program for the period July 1, 2005, through June 30, 2007.

In 1999, the Mayor of Oakland (Mayor) proposed to open a military academy as a charter school in Oakland, California through a multi-phased process (grades 7<sup>th</sup> through 12<sup>th</sup>). On November 16, 2000, the California Military Department (CMD) and OMI began working together under a Letter of Intent or Memorandum of Understanding (MOU). The original intent of this MOU covered specific elements such as:

- Outlining OMI's organizational structure, purpose, goals and operations;
- Identifying the funding sources, to include education funds appropriated by the State of California via the Average Daily Attendance, donations and grants from private individuals and corporations, and CMD funding to support OMI's operations for purposes specified in the Budget Change Proposal (BCP) or amendments;
- Set up short-term implementation goals; and
- Long-term principles for OMI's operation.

The MDIRO reviewed state laws and regulations governing charter schools and evaluated the financial operational relationship between the CMD's YPD and OMI, with a special emphasis in areas MDIRO considered high risk. Specifically, the MDIRO's audit objectives are to analyze the CMD's state funding used for OMI's personnel and operating expenses and determine whether:

- The duties and responsibilities of the CMD and OMI were clearly defined.
- Financial operations were as specified in the annual BCP, as approved by the Legislature, and conducted in accordance with policies and procedures established in the State Administrative Manual.
- Transactions were executed in accordance with management's authorization and recorded properly to permit the preparation of reliable financial reports.
- Assets were safeguarded against loss from unauthorized use or disposition.

## **SUMMARY OF FINDINGS AND RECOMMENDATIONS**

The YPD's management of its internal controls and fiscal activities governing OMI's operations lacked effective and efficient oversight as well as exceeded its authority in properly administering the CMD's funding of the school's operations. Details of the findings are located on pages 13-25 of this report.

***Finding 1:*** The CMD reimbursed OMI over \$1 million for improper civilian personnel costs and operating expenditures. (*Pages 13 – 21*)

- A. The CMD's YPD budget reimbursed OMI \$738,785.32 for the following civilian personnel hired in lieu of State Active Duty (SAD):

- Three character education teachers
- One character education director
- California Cadet Corp Instructors
- One Accounting Clerk
- One IT Coordinator
- One Assistant Athletic Director (50% salary reimbursed)
- One independent contractor serving as the Logistics Coordinator

B. The CMD's YPD budget reimbursed OMI or paid through direct purchasing \$375,349.20. However, after a review of the YPD's response the MDIRO allowed 28 percent of certain expense categories resulting in an adjusted amount of \$300,537.13. The MDIRO found unallowable costs in the following categories:

- Facilities Cleaning and Supplies
- Security System
- Sports Equipment and related costs
- Bus Rental
- Insurance Premiums
- Travel
- Legal Services
- Independent Auditor's Report
- School District Administration Fees
- Unreimbursed School Meals
- Information Technology (IT) Maintenance

***Recommendations:***

- The CMD should recoup \$738,785.32 from the YPD's OMI budget for the unallowable civilian personnel costs claimed and reimbursed.
- The CMD's YPD should immediately amend the current contract between the CMD and OMI regarding reimbursement of personnel services to meet Government Code 19130(b) requirements for "emergency" services.
- The CMD should recoup \$300,537.13 from the YPD's OMI budget for the unallowable operating expenses claimed and reimbursed.
- The CMD's YPD and CMD executive staff should review BCP language regarding the intent and nature of the operating expense categories and modify the budget line item names to reflect realistic budget categories and amounts. Provide a narrower definition of those costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations. Include a provision in the BCP language that the



funding is not only limited to availability but subject to CMD approval as necessary.

- Immediately develop and implement a written cost allocation agreement between the CMD and OMI for the current fiscal year operations documenting the YPD's realistic and equitable share of OMI's operating expenses using the most current approved BCP.
- The YPD and CMD executive staff should review and revise the current reimbursement contract between the CMD and OMI to ensure CMD pays its equitable share of operating expenditures as determined in the above recommendation.
- The YPD should review and report on the insurance coverage necessary among all of the insurance policies in effect regarding OMI, and determine whether the CMD is paying for duplicate coverage by reimbursing OMI for liability insurance premiums.

**Finding 2:** There is no current MOU between the CMD and OMI. (Page 22)

**Recommendation:** To ensure that CMD and OMI have a complete understanding and agreement regarding the roles and functions of the military presence at the academy, an MOU should be finalized and implemented immediately.

**Finding 3:** The YPD approved payment for OMI reimbursement billings without reviewing for mathematical accuracy and supporting documentation. (Page 23)

**Recommendation:** The YPD should immediately implement internal controls to review all reimbursement documents for mathematical accuracy as well as support documentation (invoices, statements, and invoices) prior to approving payment. Additionally, the YPD should develop a policies and procedures manual for reviewing and paying reimbursement contract invoices. The manual should include the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements.

**Finding 4:** The CMD may have made duplicate payments to a CaCC member through the contract reimbursement process, during which time this instructor received separate pay for CaCC hours performed. (Page 24)

**Recommendation:** The YPD should investigate the possible duplicate payment to the CaCC member and advise the CMD management when and how the issue is resolved.

**Finding 5:** The YPD is not exercising sufficient controls over computer equipment purchased with state funds. (Page 25)

***Recommendation:*** The YPD should implement procedures to ensure that computer equipment is properly stored, disposed of, and access restricted to military cadre program personnel and authorized users.

**CALIFORNIA MILITARY DEPARTMENT  
Audit of Youth Programs – Oakland Military Institute  
July 1, 2005 to June 30, 2007**

**Background**



## ***BACKGROUND***

### ***History***

In 1999, the Mayor proposed to open a military academy through a multi-phased process (7<sup>th</sup> through 12<sup>th</sup> grades) as a charter school in Oakland, California. The vision was to provide Oakland city students and parents the option of choosing a college preparatory education using the disciplined and structured environment of a military institution. Initially, the Mayor's proposal was denied by the Oakland Unified School District (OUSD) and the Alameda County Office of Education. On appeal, the Mayor received approval from the State Board of Education, with the understanding that OMI would obtain oversight from a local educational agency, which would be the OUSD.

The Mayor entered into an MOU with the CMD's Office of The Adjutant General establishing a partnership to provide the desired educational environment, thus creating the OMI. In the MOU, the partners agreed to create a non-profit corporation that would become the legal entity to operate the school. The OMI became a California Non-Profit Public Benefit Corporation in 2000, and is governed by a Board of Directors, subject to the established bylaws and articles of incorporation. The OMI's academic curriculum is provided by civilian teachers, and the California National Guard (CNG) provides military training and promotes classroom discipline. The goal is to graduate students capable of meeting the academic requirements of any university in addition to building leadership qualities, instilling self-confidence, and promoting team-work among their peers.

After becoming a charter school, OMI received state education funds via the general purpose funding for charter schools. The OMI also received funding through the CMD via the CNG Youth Programs State of California BCP process to "establish the Oakland Military Institute". The BCP authorized 17 military SAD staff and operating expenses with a total budget request of \$1.3 million. The initial proposal was to establish OMI with 162 students in 2000-01 and expand incrementally by 162 students each year to 972 students in the 7<sup>th</sup> through 12<sup>th</sup> grades by 2006/07. As a result of the initial denial of the charter petition and other delays, the OMI start date was postponed to the fall of 2001. The Legislature reappropriated the same \$1.3 million allocated in fiscal year (FY) 2000/01 for the 2001/02 school year under Chapter 127. However, Chapter 127 required that OMI provide a dollar for dollar match for the \$1.3 million. In order to meet this state match requirement, the Department of Defense awarded OMI a \$2.0 million federal grant.

The academy serves a valuable purpose providing quality college preparatory education, serving the Oakland community and its young people. The OMI student enrollment has increased over the last seven years, and graduated its first senior class in June 2007.

### ***Memorandum of Understanding***

The original intent of the MOU, executed on November 16, 2000, covered specific elements such as:

- Outlining OMI's organizational structure, purpose, goals and operations;



- Identifying the funding sources, to include education funds appropriated by the State of California via the Average Daily Attendance, donations and grants from private individuals and corporations, and CMD funding to support OMI's operations for purposes specified in the Budget Change Proposal or amendments;
- Set up short-term implementation goals; and
- Long-term principles for OMI's operation.

This MOU laid the groundwork for opening a public charter school in the OUSD as a military academy. However, the MOU has not been renewed or updated since November 2000.

### ***OMI Charter***

After receiving approval from the California State Board of Education, OMI developed a charter in compliance with the Education Code Section 47605. The charter was subsequently renewed by the OUSD in 2004, and is valid for the next five years.

The charter identifies the school's governance structure as a California Non-profit Benefit Corporation with an established Board of Directors and appropriate by-laws, employee qualifications, admission requirements, student discipline policy, legal requirements, and financial and programmatic audit processes. According to the charter, OMI shall hire instructional and support staff, and have an annual audit of the school's financial affairs, attendance and enrollment. The charter addresses several areas of authority and responsibility in educational requirements and expectations for the cadet/student. The OMI is also responsible for developing the school's discipline policy and, and together with the Board of Directors, may take appropriate legal action as necessary to maintain order in the school.

The OMI has also developed tools to disseminate information about their charter school. There is an active website to inform the public of OMI's purpose, goals and criteria for admission to the academy together with the application forms. The OMI has recently updated its Parent/Cadet Handbook, which provides guidance and instructional information to the cadets and their families about OMI's expectations and standards.

### ***OMI Board of Directors***

As a California Non-Profit Public Benefit Corporation, OMI's activities and business affairs are managed by or under the direction of a Board of Directors (Board), in which the CMD is represented by the YPD manager, who attends all board meetings. The Board operates guides, directs, and promotes the OMI. The Board may delegate management to an individual, who is currently the Superintendent of OMI, but retains the ultimate authority to conduct the corporate activities of the academy.

To help assess charter school compliance with state and federal rules and regulations and fulfill its statutory responsibility, the Board performs the following activities:

- Monitors the school to help ensure it complies with federal and state laws, and charter school requirements;



- Establishes and approves major educational and operational policies;
- Approves all major contracts, the school budget, and fiscal affairs;
- Evaluates the top administrative staff;
- Hires and terminates (1) the principal, who oversees OMI's academic curriculum and personnel, and (2) the commandant, who is in charge of the skill classes and the military personnel;
- Receives complaints from parents, students, charter school faculty, and the public and, depending on the nature of the complaint, investigates and resolves the matter or refers the matter to the proper agency, such as the county attorney or Attorney General; and
- Provides consumer information to the public.

### ***State Budget Funding of OMI Operations***

Incorporated within the initial MOU, the school charter, and the CMD's initial BCP emerges a common principle to support and fund OMI as an institution focused on providing a "disciplined, educational environment with a military organizational framework using CNG military personnel as, not only mentors for the cadets, but instructors of military science courses". Initially, the military personnel (referred to as "military cadre" or "cadre") consisted of a commandant officer with the rank of Major (pay grade 04), a Captain (pay grade 03), and several non-commissioned officers (NCOs) in various pay grade levels. The military cadre has been responsible for teaching, training, motivating, and mentoring OMI's cadet students. The cadre provides instruction in military leadership, team building, Code of Honor, peer communication, physical fitness, and drills and ceremonies. They also monitor and develop student discipline before, during, and after school hours.

Up until FY 2005/06, military instructors at OMI were hired as active or retired CNG members or active members in the State Military Reserve, who are eligible to apply for SAD positions. From FY 2001/02 through FY 2004/05, these members filled the positions as cadre supervisors, platoon leaders, fiscal and logistics NCOs, operations NCOs, or military instructors. In addition, there were, and still are, mandatory educational qualifications for these SAD positions, which are outlined below:

- ***Commandant*** – Successful completion of civilian and military education requirements commensurate with the grade of the applicant is required, degree in counseling, psychology or related fields is desirable, training or education in youth counseling desirable.
- ***Operations*** – Successful completion of appropriate level of NCO military education.
- ***Senior Military Instructor*** – High school graduate or higher, possess working experience performing the duties of a military instructor.
- ***Military Instructor*** – Completion of the appropriate level of NCO military education, training or education in human relations, equal opportunity, or human awareness is desirable.
- ***Logistics*** – Successful completion of high school or equivalent.

Since OMI opened in July 2001, the YPD has submitted BCPs each year to increase SAD military cadre, together with the commensurate operating expenses, to meet the incremental increase in OMI's enrollment and grade levels. Each of these state funded

cadre positions has been through a review process for classification under SAD employment rules.

As illustrated below in Table 1, the Legislature authorized 17 positions in FY 2001/02. Between FY 2002/03 and FY 2004/05, the number of authorized positions increased to 30.0 and then decreased to approximately 13.5. In FY 2005/06, the CMD requested funding to re-establish eleven SAD positions, lost in prior years' budget reductions, to provide military instructors in support of four additional classes. As a result, the requested positions were authorized and increased to 21.0 and remained at 21.0 in FY 2006/07.

Table 1 - Authorized Positions

Fiscal Year	Authorized Positions	Filled Positions
2001/02	17.0	19.0
2002/03	30.0	28.3
2003/04	30.0	18.0
2004/05	13.5	13.0
2005/06	21.0	16.0
2006/07	21.0	16.5



## **OBJECTIVE**

*Government Code Section 13400 through Section 13407*, known as the Financial Integrity and State Manager's Accountability Act (FISMA), was enacted by the California Legislature in 1983 to reduce the waste of resources and strengthen accounting and administrative controls. The FISMA charges each state agency with the responsibility of evaluating and reporting on internal controls, which includes a review of processes and activities covering mission objectives, goal attainment, efficient use of agency resources, compliance with applicable laws and regulations, and providing accurate and reliable financial information.

To assist the CMD with FISMA compliance, the MDIRO's general audit objectives will be to review the CMD's state funding used for OMI's personnel and operating expenses and determine if:

- The duties and responsibilities of CMD and OMI are clearly defined.
- Financial operations are conducted as specified in the annual BCP's as approved by the Legislature and in accordance with policies and procedures established in the SAM.
- Transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of reliable financial reports.
- Assets are safeguarded against loss from unauthorized use or disposition.

## **SCOPE AND METHODOLOGY**

The MDIRO used the following methods to gain an understanding of the YPD's OMI operations and processes, as well as evaluate and test the internal controls over financial activities for the audit period July 1, 2005 through June 30, 2007. The MDIRO performed a walkthrough of the OMI facility, interviewed YPD and OMI management and staff, and reviewed the following:

- Legislation, regulations, and policies;
- MOU between the CMD and OMI;
- OMI's Charter;
- OMI Board of Directors Meeting minutes;
- YPD's CALSTARS and budgetary reports;
- CMD's SAD personnel records;
- Personal services contracts;
- Inventory reports; and
- OMI's reimbursement requests, invoices and payroll records.

All OMI payroll is processed through an outside company; therefore, the MDIRO did not evaluate the reliability and integrity of the OMI's computer-processed personnel data.

The results of the above tests provided a reasonable basis to assess the adequacy of the YPD's compliance with SAM, applicable laws, and regulations.

## ***STATEMENT OF AUDITING STANDARDS***

The MDIRO conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to provide a reasonable basis for our conclusions regarding the program under review. An audit also includes an assessment of applicable internal controls and compliance with requirements of laws and regulations when necessary to satisfy the audit objectives. The MDIRO believes that this audit provides a reasonable basis for our conclusions.

**CALIFORNIA MILITARY DEPARTMENT  
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**Findings and Recommendations**



## **AUDIT FINDINGS AND RECOMMENDATIONS**

The YPD's management of its internal controls and fiscal activities governing OMI's operations lacked effective and efficient oversight as well as exceeded its authority in properly administering the CMD's funding of the school's operations. There were several areas where controls were either not in place or functioning as intended and where immediate corrective action is necessary.

***Finding 1: The CMD reimbursed OMI over \$1.0 million for unallowable civilian personnel costs and operating expenditures.***

During July 1, 2005 through June 30, 2007, the YPD:

- A. Executed reimbursement contracts through the Comptroller's Office using the budget line item "Consulting and Professional (C&P)" Internal and External, and authorized reimbursement to OMI for **\$738,785.32** (as illustrated in Table 2) to hire civilian personnel in lieu of SAD military cadre, and
- B. Made direct purchases and authorized reimbursement to OMI for **\$300,537.13** in operating expenses deemed inappropriate or in excess of reasonable costs.

The Government Code Section 13401, states in part:

*"...(3) Effective systems of internal accounting and administrative controls are necessary to assure that state assets and funds are adequately safeguarded, as well as to produce reliable financial information for the agency...(5)(b)(1). Each state agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices."*

Government Code Section 19130(b)(1) states:

*"(b) Personal services contracting also shall be permissible when any of the following conditions can be met (1) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose."*

The California State Administrative Manual (SAM), Section 6140 and 6315, states:

*"The Budget Act is the primary source for appropriations...Departments have the primary responsibility to operate within budget levels and to comply with any restrictions or limitations enacted by the Legislature...the general expectation is that state agencies comply with the legislative intent..."*

*"...each department is responsible for preparing its own budget and for carrying out the current level of service or activities as authorized by the Legislature."*

SAM Section 20050 states:

*“... that the elements of a satisfactory system of internal accounting and administrative controls include a system of authorization and recordkeeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures...”*

Military and Veterans Code Section 530, states in part:

*“Such officers (CaCC) shall exercise no authority or command except as military instructor or instructors or professors of military science and tactics of such academy. Such commissions shall be granted and may be revoked by the Adjutant General, under such rules and regulations as he may prescribe.”*

#### **1-A. Civilian Personnel Hired in Lieu of SAD Personnel - \$738,785.32**

##### Civilian Teachers and Support Staff

During the September 21, 2005 OMI Board of Directors meeting, the OMI Superintendent reported that the school had “added new coursework/activities for the purpose of improving the educational experience, using an expanded character education program, and to help retain students. Prior to the 2005/06 school year, the OMI Superintendent hired three civilian “character education” teachers. One had teacher credentials from Florida, one was credentialed in California, and one was not credentialed. The OMI Superintendent also hired a character education coordinator, who had a doctoral degree. It should be noted that the California credentialed teacher had been employed with OMI as a Spanish teacher prior to signing the 2005/06 contract to teach the character education curriculum. These civilian instructors, according to the contract's scope of work, would teach alongside the military cadre as a team. They were also referred to as “academic staff”, in terms of their responsibilities, who would present “formal periods of instruction in accordance with the standards set by the California State Board of Education, etc.”

To fund these civilian positions the CMD and OMI executed reimbursement contracts, and amendments as needed, in FY 2005/06 and 2006/07. In FY 2005/06, the YPD and the Comptroller's Office approved an Allotment Revision Request to establish a Contract and Professional Services budget line item. *(As stated earlier in this report, the YPD requested funding, in the FY 2005/06 BCP, to re-establish eleven SAD positions for military instructors to support four additional classes.)* In addition to character education instructors, OMI also hired the following administrative and support staff for the same fiscal years plus FY 2007/08:

- One Accounting Clerk;
- One Information Technology Coordinator;
- One Assistant Athletic Director (50% salary reimbursed); and
- One independent contractor serving as a Logistics Coordinator.



The YPD provided the following justification to procure civilian personnel:

“Government Code 19130(b)(10) The funding for the charter school is a joint venture of the City of Oakland and the State of California through the Military Department. The state funding for the school is limited to appropriation each year and was established as a reimbursement not for hiring of State employees. The funding provided by the State changes each year and is temporary in nature. It is in the State’s best interest to contract/reimburse the charter school for these services.”

However, Government Code 19130(b)(10) states that such contracting is permissible if the services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose. Therefore, these provisions are not to be applied to expansions of existing programs or displacement of state full time equivalent employees. As a result, the YPD inappropriately used personal services contracts in lieu of hiring full time equivalent, SAD military personnel to perform similar services.

#### California Cadet Corps (CaCC) Instructors

The personnel structure of OMI’s military cadre did not appreciably change until the early part of 2007 (FY 2006/07) when OMI hired three civilian employees who wore CaCC uniforms. In the initial visit to OMI in September 2007, the MDIRO saw one of these employees wearing the uniform of the Army National Guard, except that the label next to his name read “California Cadet Corps” instead of “Army” (for the Active National Guard Soldier) or “California” (for the SAD Soldier).

The MDIRO found that the CaCC employees held previous CaCC positions in other high schools prior to employment with OMI. In order to become a CaCC instructor, an individual, preferably with prior military experience, is first nominated by the school administration and, if accepted, commissioned by The Adjutant General in the CaCC. Once the CaCC member is commissioned and hired to teach CaCC classes, the school validates the CaCC hours, forwards the validated time to the YPD, who, after approving the time and attendance, submits the hours to the CMD’s State Personnel Office for payment. These hours are typically for time spent teaching the CaCC curriculum in a particular high school or community college, where there are no other military programs on campus.

In a meeting with the YPD on October 4, 2007, the MDIRO learned that the three civilian employees mentioned above were hired as full-time “military” personnel, each with a commission in the CaCC holding the rank of Major. One employee was hired as a Military Consultant to advise and support the military science-related activities, and the other two signed identical employment contracts as Admissions Officers, whose duties included record keeping, marketing, and meeting OMI’s enrollment goals. The MDIRO was unable to validate why OMI needed two Admissions Officers.

Based on a review of OMI’s past BCPs, the only military personnel approved and funded by the Legislature to teach at OMI were SAD military Soldiers. According to the YPD’s June 2007 OMI organization chart (verbally updated with MDIRO in the above meeting), there

were three initial CaCC instructors, which OMI hired in FY 2006/07, with the rank of Major, (pay grade 04). Although it is outside the audit review period, MDIRO found that OMI also hired four additional CaCC instructors in the 2007/08 school year, filling SAD positions. *Only one current SAD position, the commandant, had a 04 pay grade.* During these time frames it would appear that the CMD reimbursed OMI for seven 04 officer pay grade positions, which were designated for SAD E7 and E6, NCO pay grades. In order to fund the salaries and benefits in FY 2006/07 for the three CaCC employees, the CMD and OMI executed a contract amendment to increase the reimbursement for personnel services by \$50,000.00. The current FY 2007/08 reimbursement contract includes the four added CaCC instructors' salaries and benefits.

Table 2 illustrates the total unallowable civilian personnel costs.

**Table 2 – Personnel Contract Reimbursement**

OMI STAFF REIMBURSED	FY 2005/06	FY 2006/07	Total
CHARACTER EDUC. TEACHERS	\$238,616.14	\$241,930.65	\$480,546.79
CACC INSTRUCTORS	0	93,182.97	93,182.97
ACCOUNTING CLERK	33,210.07	43,855.33	77,065.40
IT COORDINATOR	25,233.83	0	25,233.83
ASST. ATHLETIC DIRECTOR	17,756.33	0	17,756.33
LOGISTICS COORDINATOR	22,500.00	22,500.00	45,000.00
TOTAL REIMBURSED TO OMI	\$337,316.37	\$401,468.95	\$738,785.32

*Failure to implement program activities authorized by the Legislature and lack of reliable financial information increases the risk of public scrutiny and jeopardizes the CMD's state funding.*

**Recommendation:** The CMD should recoup \$738,785.32 from the YPD's OMI budget for the unallowable civilian personnel costs claimed and reimbursed.

**Recommendation:** The CMD's YPD should immediately amend the current contract between the CMD and OMI regarding reimbursement of personal services to meet Government Code 19130 requirements for "emergency" services.



**1-B. Unallowable Operating Expenditures - \$300,537.13**

Based upon the funding justification and program intent set forth in the respective BCPs, the \$300,537.13 expenditures and reimbursements are considered unallowable. The YPD does not have a written cost allocation agreement to support those OMI costs charged directly to or reimbursed by the CMD.

Table 3 below illustrates the unallowable expenditures.

**Table 3 – Unallowable General Operating Expenses**

UNALLOWABLE COSTS CATEGORY/ACTIVITY	FY 2005/06 TOTAL UNALLOWABLE AMOUNT	FY 2006/07 TOTAL UNALLOWABLE AMOUNT	TOTAL UNALLOWABLE COSTS
Facilities: Custodial Services & Supplies	\$39,526.78	\$53,196.57	\$92,723.35
Facilities: Utilities	\$49,441.26	\$35,534.12	\$84,975.38
Security Systems	\$1,693.49	0	\$1,693.49
Sports Equip/Supplies	12,298.22	9,977.94	\$22,276.16
Bus Rental	3,846.25	\$532.00	\$4,378.25
Insurance	10,815.00	19,551.79	\$30,366.79
Travel: Air Fare & Car Rental	0	3,413.65	\$3,413.65
Legal Services	12,942.60	9,415.80	\$22,358.40
Independent Auditor's Report	14,000.00	0	\$14,000.00
School District Administration Fee	5,144.00	0	\$5,144.00
Unreimbursed Meals	12,280.42	0	\$12,280.42
IT Maintenance	\$3,431.64	\$3,495.60	\$6,927.24
<b>TOTAL</b>	<b>\$165,419.66</b>	<b>\$135,117.47</b>	<b>\$300,537.13</b>

**Facilities Cleaning Costs, Supplies, and Utility Expenses - \$92,723.35 & \$84,975.38**

The CMD reimbursed OMI \$54,898.31 in FY 2005/06 and \$73,884.12 in FY 2006/07 in professional facilities maintenance costs, *which constituted 100 percent of the total custodial services and supplies for the academic school year.* According to the FY 2004/05 BCP, the cleaning and maintenance costs were to be reimbursed "in support of the military staff". However, because the FY 2005/06 BCP did not reference facilities costs and the statement above was omitted, the MDIRO relied upon the original intent of the BCP language, which was to have the CMD pay their share of the cleaning and maintenance costs in support of the military staff only. Additionally, the CMD paid \$68,668.42 in FY 2005/06 and \$48,352.94 in FY 2006/07 in utilities costs. In the above cases, the MDIRO accepted and used the YPD's allocation cost factor of 28 percent, as discussed in the auditee's response, and applied it to the facilities custodial services, supplies, and utilities. The net results have been calculated and are reflected in the table above.

The MDIRO did not review the facilities maintenance agreements between OMI and the cleaning company. However, a review of the billings did not reflect any excluded areas, and the bill appeared to include cleaning for the entire school.



***Facilities Security Systems - \$1,693.49***

The CMD reimbursed OMI \$2,352.07 for a security system in the 2005/06 fiscal year. The 2005/06 BCP did not contain a provision for the allocation of facilities costs. However, past practices indicated that it was the responsibility of the City of Oakland, and not the CMD, to provide all other facilities costs, which would include security. Based upon the auditee's response, the MDIRO will allow the 28 per cent cost allocation factor to determine acceptable costs. The above, bolded figure reflects the balance of the security system cost that is unallowable. ( $\$2,352.07 \times 0.28 = \$658.58$ ) ( $\$2,352.07 - \$658.58 = \$1,693.49$ )

***Sports Equipment, Supplies and Related Costs – \$22,276.16***

The CMD either reimbursed or paid directly to OMI a total of \$12,298.22 for FY 2005/06 and \$9,977.94 for FY 2006/07 in sports equipment and related costs. This included: volleyball, basketball, and soccer uniforms, athletic sports jackets, sports-night awards, a golf instructor's training camp, and fencing instruction, which did not appear to be approved expenditures outlined in the YPD's BCP for OMI.

According to the BCPs, the cadets would receive physical education in terms of personal wellness, physical training, diet, and nutrition. The physical fitness training included intramural sports and is addressed in OMI's charter as an extracurricular class under the Academic Excellence section. Although the BCPs do not specify that the military cadre is responsible for the physical training of the cadets, it is implied and expected that the cadre are the primary instructors for the cadets' physical fitness and health.

***Bus Rental - \$4,378.25***

The CMD reimbursed OMI \$3,846.25 in FY 2005/06 and \$2,004.50 in FY 2006/07 for bus rental expenses to transport the cadets to interscholastic athletic events, a baseball sport event, and two science museums. It was originally determined that these events were considered academic field trips and not related to the funding requirements of the YPD's BCP. Based on the YPD's response, the MDIRO accepts the bus rental expense of \$1,472.50 for the sporting event in which the OMI cadets participated in the Oakland Athletics opening ceremonies. The unallowable costs for the bus rental expenses have, therefore been reduced to \$4,378.25.

***Insurance Premiums - \$30,366.79***

The CMD reimbursed OMI \$10,815.00 in FY 2005/06 and \$19,551.79 in FY 2006/07 for insurance premiums classified as an "umbrella and business owner's policy". In the original MOU between the CMD and the co-founder of OMI, the Mayor, it stated that, as a newly formed corporation, each party would provide a "liability insurance policy that covers the Department (CMD) and the Mayor for any exposure they may have in operating the school."

The YPD pays insurance premiums in its budget, which allocates a portion of the premiums to OMI's budget code. This expense includes Group Accidental Death and general liability insurance (one premium bill was for an "excess" liability program). The YPD charged the



OMI budget code \$4,312.56 in FY 2005/06 and \$2,000.00 in FY 2006/07 for OMI's share of the premiums. It should be noted that the State of California is self-insured; however, the MDIRO did not review any of the policies either at OMI or the YPD to determine the extent of coverage, and whether the CMD was paying for duplicate coverage.

***Travel - Air Travel and Car Rental - \$3,413.65***

██████████, who was reportedly serving as a consultant to OMI's Superintendent, was reimbursed \$3,413.65 for air travel and car rental from the YPD budget in FY 2006/07. Based on discussions with the YPD and OMI, the MDIRO understood that ██████████, who was apparently under contract with another school district, had been working for OMI as a consultant. A review of OMI'S Board of Directors' minutes dated September 11, 2006 and March 26, 2007 indicated that ██████████ was being considered for, if not acting as, OMI's next Commandant. However, reimbursement for these travel expenses did not appear to be justified or supported by the BCP in place for funding OMI operations, nor did the CMD enter into any agreement with ██████████ to reimburse ██████████ for travel expenses while working as the OMI Superintendent's consultant.

***Legal Services - \$22,358.40***

In a review of the legal services fees and billable hours, the CMD reimbursed OMI \$12,942.60 in FY 2005/06 and \$9,415.80 in FY 2006/07 for attorney fees involving student discipline issues that may or may not have resulted in litigation activities. As specified in OMI's charter, student discipline policy falls under the umbrella of the school administration.

***Independent Financial Audit - \$14,000.00***

In FY 2005/06, the CMD reimbursed OMI \$14,000 for an independent audit firm to prepare the Office of Management and Budget (OMB) Circular A -133 report to comply with the reporting requirements of the Department of Education and Charter Schools. Charter schools must submit a copy of the OMB Circular A -133 report to the chartering authority, in this case the Oakland Unified School District, the County Office of Education, the State Controller, and the California Department of Education by December 15th of each year. This is an expense of the OMI school administration and not the CMD.

***School District Administrative Charges - \$5,144.00***

In FY 2005/06, the CMD reimbursed OMI \$5,144.00 for a 1% Administrative Fee, which the OUSD assesses charter schools for administrative monitoring and oversight activities performed by the school district. Based upon a conversation with the OMI Business Manager, it appears that the YPD verbally approved reimbursement for this fee. This is an expense of the OMI school administration and not the CMD.

***Unreimbursed Meals - \$12,280.42***

In FY 2005/06 the CMD's YPD authorized and reimbursed OMI \$12,280.42 for excess student meal expenses that were not reimbursed by other state or federal program



resources. This expense was a result of OMI overestimating the number of meals served to the cadets on a monthly basis. Any excess costs over the funding received resulted in an expense to OMI, which was submitted to the CMD for reimbursement. The CMD budget does not include reimbursing OMI for the cadets' daily meal costs.

***IT Maintenance - \$6,927.24***

The CMD reimbursed OMI \$4,766.17 in FY 2005/06 and \$4,855.00 in FY 2006/07 for IT technicians and maintenance services. The MDIRO found time-sheets and invoices related to Kelly Temporary Services to pay for IT technicians working at OMI. In addition, there was an invoice for work performed at OMI to configure and install a computer server and clients. Based upon the auditee's response, the MDIRO will allow the 28 per cent cost allocation factor to determine the reasonable share of CMD IT expenses, which is \$6,927.24. ( $\$4,766.17 + \$4,855.00 = \$9,621.17 \times .280 = \$2,693.93$ ) ( $\$9,621.17 - \$2,693.93 = \$6,927.24$ )

*A weak control environment increases the risk of inappropriate transactions, fraud, and waste, and may result in a loss of CMD's state funding. Also, failure to adequately document and maintain current practices policies, and procedures increase the risk of inconsistencies and errors, and unreliable financial information.*

***Recommendation:*** The CMD should recover \$300,537.13 from the YPD's OMI budget for the unallowable operating expenses.

***Recommendation:*** The CMD's YPD and CMD executive staff should also review BCP language regarding the intent and nature of the operating expense categories and modify the budget line item names to reflect realistic budget categories and amounts. Provide a narrower definition of those costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations. Include a provision in the BCP language that the funding is not only limited to availability but subject to CMD approval as necessary.

***Recommendation:*** Immediately develop and implement a written cost allocation agreement between the CMD and OMI documenting the YPD's realistic and equitable share of OMI's operating expenses, based upon the approved funding in the most current BCP.

***Recommendation:*** The YPD and CMD executive staff should review and revise the current reimbursement contract between the CMD and OMI to ensure CMD pays its equitable share of operating expenditures as determined in the above recommendation.

***Recommendation:*** The YPD should review and report on the insurance coverage necessary among all of the insurance policies in effect regarding OMI, and determine whether the CMD is paying for duplicate coverage by reimbursing OMI for liability insurance premiums.

***Finding 2: There is no current Memorandum of Understanding (MOU) between the CMD and OMI.***

The CMD's YPD did not have a current MOU, or any other agreement, with the OMI. The previous MOU expired on June 30, 2001. Although this MOU has expired, the CMD's YPD proposed to amend it to formally recognize the relationship.

SAM 20050, states in part:

*"...Entity heads and managers should identify and make the necessary corrections when warned by any of the danger signals listed...lines of organizational authority and responsibility are not clearly articulated or are nonexistent..."*

*Good Business practices require that legitimate, specific and written agreed-upon responsibilities and identification of expectations between two parties to ensure smooth operations and promote efficiency.*

***Recommendation:*** To ensure that CMD and OMI have a complete understanding and agreement regarding the roles and functions of the military presence at the academy, an MOU should be finalized and implemented immediately.



***Finding 3: The YPD approved payment for OMI reimbursement billings without reviewing for mathematical accuracy and supporting documentation (vendor receipts, invoices, and/or statements).***

The YPD did not have procedures in place and did not exercise proper management oversight to ensure that OMI reimbursement billings were reviewed for mathematical accuracy and properly supported.

Government Code 13403, states in part:

*“...the elements of a satisfactory system of internal accounting and administrative controls, shall include, but not limited to: ...A system of authorization and record keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues and expenditures..”*

*Failure to review billings for mathematical accuracy and supporting documentation increases the risk of fraud, violations of appropriations, and mismanagement of funds.*

**Recommendation:** The YPD should immediately implement internal controls to review all reimbursement documents for mathematical accuracy as well as support documentation (invoices, statements, and invoices) prior to approving payment. Additionally, the YPD should develop a policies and procedures manual for reviewing and paying reimbursement contract invoices. The manual should include the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements.

***Finding 4: The CMD may have made duplicate payments to a CACC member.***

During May 2007, the CMD reimbursed OMI for one of the CaCC instructor's salary and benefits through the contract reimbursement process, during which time this instructor received separate pay for CaCC hours performed on May 10 and 11, 2007 (Thursday and Friday). It should be noted that based on time constraints, MDIRO staff was unable to perform an analysis to determine if the CaCC instructor may have used personal leave time in lieu of OMI salary to perform the CaCC hours.

***Recommendation:*** The YPD should investigate the possible duplicate payment to the CaCC member and advise the CMD management when and how the issue is resolved.

***Finding 5: The YPD is not exercising sufficient controls over computer equipment purchased with state funds.***

Based on a walk-through and test of inventory items, the MDIRO found that controls were not in place to adequately safeguard physical inventory as an integral part of the YPD's overall internal control structure.

Laptop computers were located in non-program related classrooms (i.e. art, special education, trigonometry, etc.) and numerous outdated computers were found in a storage room awaiting disposal. Additionally, several laptop computers purchased in calendar year 2006 were found scattered on counters and shelves and not properly safeguarded within OMI's Information Technology Office.

SAM Section 6000 and Section 8640, states:

*"...The combination of accurate accounting records and strong internal controls must be in place to protect against and detect the unauthorized use of state property."*

*"...Property listed on approved STD. 152 will be disposed of without delay, and items held in the suspense file more than 30 days will be reviewed by an agency official to determine why the disposition has not been completed..."*

*The lack of accountability for State assets increases the risk of fraud, waste, and misuse.*

***Recommendation:*** The YPD should implement procedures to ensure that computer equipment is properly stored, disposed of, and access restricted to military cadre program personnel and authorized users.





**Richardson, Debbie NGCA**

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**From:** Gabrielli, James L COL NGCA  
**Sent:** Monday, April 07, 2008 10:48 AM  
**To:** Richardson, Debbie NGCA  
**Cc:** Nelan, Daniel J COL NGCA; Ellsworth, Kevin G B G NGCA; Dana, Matthew L LTC NGCA; Friedman, Patricia A Mrs NGCA  
**Subject:** RE: Due Date 4 April 2008 (UNCLASSIFIED)  
**Attachments:** OMI FY 05-07 Audit Response (R).doc



OMI FY 05-07 Audit  
Response (R...

Classification: UNCLASSIFIED

Caveats: NONE

Yes, it is the final response. Attached is the response without the word "draft" in the header.

James L. Gabrielli  
Colonel (Ret)  
Director, Youth Programs  
Military Department  
(916) 361-4320 office  
(916) 267-7252 cell  
James.Gabrielli@us.army.mil

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-----Original Message-----

From: Richardson, Debbie NGCA  
Sent: Monday, April 07, 2008 9:50 AM  
To: Gabrielli, James L COL NGCA  
Cc: Nelan, Daniel J COL NGCA; Ellsworth, Kevin G B G NGCA; Dana, Matthew L LTC NGCA; Friedman, Patricia A Mrs NGCA  
Subject: RE: Due Date 4 April 2008 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Good Morning, COL Gabrielli.

Thank you for submitting your response within the required timeframe. The MDIRO requires that you submit a final response. If the Draft Audit Response you submitted on April 4, 2008, at 3:03 was intended to be your final response, please let me know.

Thank you.

-----Original Message-----

From: Gabrielli, James L COL NGCA  
Sent: Friday, April 04, 2008 3:03 PM  
To: Richardson, Debbie NGCA; Friedman, Patricia A Mrs NGCA  
Cc: Nelan, Daniel J COL NGCA; Ellsworth, Kevin G B G NGCA; Dana, Matthew L LTC NGCA  
Subject: RE: Due Date 4 April 2008 (UNCLASSIFIED)

Classification: UNCLASSIFIED

## Youth Programs – Oakland Military Institute Response to Draft Audit Report

**MDIRO Finding 1: The CMD reimbursed OMI over \$1.1 million for unallowable civilian personnel costs and operating expenditures.**

**1-A. Civilian Personnel hired in lieu of SAD personnel - \$738,785.32**

**MDIRO Recommendation:** The CMD should recoup \$738,785.32 from the YPD's OMI budget for the unallowable civilian personnel costs claimed and reimbursed.

*YPD Response:* The YPD believes the \$738,785.32 should not be reimbursed because it was CMD YPD's responsibility to provide military science instruction to the cadets. The YPD utilized the personnel services contract as a short term solution to the shortage of certificated instructors available through the SAD system. The YPD attempted to exercise appropriate fiscal constraint by utilizing salary savings from vacant SAD positions to reimburse OMI for the Character Education and CaCC instructors. The YPD believes the funding was expended in compliance with the original BCP and was not misdirected or misused.

Leadership Development and Character Education have always been elements of the military science program at OMI. Prior to hiring the civilian Character Education instructors the YPD coordinated with the previous State Comptroller regarding the personnel services contract at OMI. The YPD was advised that as long as the contract was of a temporary nature, the contract was permissible. The intent of the YPD personnel services contract was to enhance the military science curriculum in the area of character development. The civilian character education teachers worked as an element of the military staff. The YPD ended the personnel services contract for the character education teachers in June 2007. Prior to hiring the CaCC instructors, the YPD coordinated with the State Personnel office and the CAAG-SJA office. The SJA advised the YPD to have OMI be the hiring agent for the CaCC personnel. It is common practice for the School District or individual school to be the hiring agent for CaCC personnel.

The original BCP establishing the academy states that military subjects will be modeled after the CaCC 7-12 grade curriculum. The YPD's intent in hiring the CaCC personnel was to provide the best possible military science curriculum taught by the best qualified instructors. As noted in the MDIRO report, "the CaCC employees held previous CaCC positions in other high schools prior to their employment with OMI." This level of experience working with youth in a public school setting is not typically achieved via the SAD open announcement system. In addition to previous experience working with youth in a school setting, the CaCC Officers also possessed the Designated Subjects Teaching Credential for Basic Military Drill which allowed the OMI cadets to receive High School credit for their military science and physical education classes.

The CaCC Officers were hired because there is no provision for NCO's in the CMVC as it applies to the CaCC. To remain within the BCP budgetary guidelines, the YPD capped the pay of the CaCC military science instructors at the equivalent of the NCO rank of E-6/E-7. The YPD was not aware of the potential conflict of members of the unorganized militia (CaCC) supervising members of the organized militia on SAD when the CaCC personnel were hired at OMI via a personnel services contract.

Six of the seven CaCC personnel at OMI have since joined the SMR. They subsequently applied for open vacancy announcements at OMI and were selected for hire as CMD SAD employees. One of the CaCC personnel chose to join the California Army National Guard. This individual is scheduled to report for a 12 week active duty OCS course (April 08).



At OMI start up, the CMD through the BCP Process (2000-01 and 2002-03) provided extensive administrative and technical support to OMI as evidenced by the establishment of the following SAD positions: (Fiscal Officer, Fiscal NCO, Information Systems NCO, 2 Logistics NCO's, 2 Admin NCO's and a Personnel NCO).

Due to budget reductions, the services provided to OMI by the CMD YPD were gradually passed on to the OMI Administration as CMD YPD positions were selectively eliminated. Despite the loss of these positions, the need for administrative and technical support remained. When the CMD's third BCP was approved, a contract was established to reimburse OMI for a portion of the administrative and technical support previously provided by CMD YPD. The YPD reimburses OMI for administrative and technical support through the O&E portion of the contract. The YPD submits that the reimbursement for administrative and technical support complies with the original legislative intent and the amount reimbursed is less than the cost of the eight CMD YPD personnel previously approved by the legislature through the BCP process.

The YPD agrees that future CMD contracts for administrative and technical operating expense reimbursements should be based on a pro rata share of expenses and a narrower definition of allowable costs. The 19 YPD military staff at OMI equates to approximately 30% of the total OMI staff (62).

Based on the above information, the YPD believes the funding was expended in compliance with the legislative intent and was not misdirected or misused. Decrementing the YPD OMI budget by the amount recommended will force the YPD to terminate approximately 40% of the YPD OMI staff. The remaining YPD OMI staff will be unable to meet the CMD mission requirements at OMI.

**MDIRO Recommendation:** The CMD's YPD should immediately amend the current contract between the CMD and OMI regarding reimbursement of personnel services to meet Government Code 19130 requirements for "emergency" services.

YPD Response: The CMD YPD will immediately prepare an amendment to the current contract between the CMD and OMI. The YPD will also staff a recommendation through the CMD Executive Staff defining the appropriate level of review and approval needed for future personnel services contracts.

Once the amendment is prepared by the YPD and approved by the Director, Joint Staff (DJS) the YPD will submit the amendment to the State Comptroller and Contracting Officer who will in turn forward the amendment to DGS for approval. Upon approval, the contracting officer will notify OMI that the CMD is giving 30 days notice that it has exercised the option to amend the contract to reflect a reduction of funds.

#### **1-B. Unallowable Operating Expenditures - \$375,349.20**

**MDIRO Recommendation:** The CMD should recover \$375,349.20 from the YPD's OMI budget for the unallowable operating expenses.

YPD Response: The YPD believes the amount reimbursed for facility operations and utilities was reasonable and fair. While the funding appears to be a transfer payment, it was not a disproportionate share of the total OMI facility/utility expenditures.



The YPD notes that in the original BCP dated 30 Dec 1999, line item funding in the amount of \$95,000 was set aside for facility operations and \$13,000 was set aside for utilities. The second BCP dated 12 September 2001 included an additional \$10,000 for facilities maintenance and cleaning. The BCP's for OMI were cumulative in their scope to allow for the incremental growth of students, staff and facilities. Allowing for annual inflation, the total amount reimbursed to OMI for facility operations and utilities is within the amount specified in the BCP's approved by the legislature. The YPD requests that the facility and utility operating expense reimbursement costs be determined as allowable expenses.

The YPD agrees that future CMD contracts for facility and utility operating expense reimbursements should be based on a pro rata share of expenses. The YPD military staff at OMI occupies approximately 28% (12,680 sq. ft.) of the total facility space (45,814 sq. ft.) at OMI. Once a determination has been made by CMD Executive staff regarding the facility and utility reimbursements, the YPD will immediately amend the contract to reflect a pro rata share of the expenses and a narrower definition of allowable operating expense categories and amounts.

The YPD requests that the previous security expenditures be determined as allowable expenses. The YPD further requests approval to reimburse OMI for a pro rata share of security operating expenses. OMI invested more than a million dollars to renovate facilities at the new campus. As the renovations neared completion, vandals struck the campus causing more than \$20,000 in damage. The damage was extensive and involved the 4 military science classrooms. Fortunately there was no CMD YPD property in the classrooms. OMI has since hired security to protect the facilities and property. The need for security occurred after the 2005/06 BCP was approved.

The YPD requests that the sports equipment and related costs for the OMI cadets be approved as an allowable operating expense. In the original letter of intent the CMD took responsibility for fostering the physical fitness program at OMI. The YPD military staff provides the physical fitness instruction as a subset of the military science curriculum. The parent student handbook requires cadet participation in intramural sports that is organized by military company and led by the military staff. A significant number of the military staff also coach OMI teams in interscholastic sports.

As stated above, the YPD believes the physical fitness program is an integral piece of the CMD YPD mission at OMI. As such, the Bus Trip to the Baseball sporting event took place because the Oakland A's asked the OMI cadets to unfurl the extremely large US Flag during opening ceremonies. The YPD considers the cadets participation to be both an opportunity for the cadets to provide service to the community and an opportunity to render honors to their country which is clearly an element of the CMD mission at OMI. The YPD agrees that the science trip were OMI expenses. The YPD agrees and will implement procedures to ensure that all future CMD YPD sponsored bus trips support the CMD YPD mission at OMI and are approved in advance.

The YPD reimbursed OMI for liability and property insurance that covers the CMD's risk in operating the school. As stated in the audit report, the CMD and Mayor established this requirement in the original MOU between the two parties. In the original BCP \$24,000 was set aside for liability insurance. This insurance does not cover the students at OMI nor does it cover workman's compensation. The YPD requests that the funds expended for the liability insurance policy be approved as an allowable operating expense. The YPD agrees to notify



OMI that the CMD has satisfactory liability insurance through the State of California and will no longer reimburse OMI for insurance premiums.

The YPD entered into a separate agreement for insurance at the direction of the previous CMD Executive staff. This insurance policy was established to cover the CMD's risk when OMI cadets participate in training at military installations and includes coverage for students and CMD staff. Examples of training led by CMD YPD staff include: Summer Camp, Leadership Schools, Bivouacs, Drill Competitions, etc. The YPD requests that this insurance policy be approved as an allowable operating expense.

The previous Commandant and Acting Commandant left OMI at the beginning and middle of the school year thereby leaving a void in the YPD leadership at OMI. The YPD reimbursed OMI for LTC [REDACTED] Air travel and car rental because [REDACTED] was serving as a consultant to the CMD YPD and was specifically tasked with developing the following programs at OMI: Leaders of Character, TAC Teams (the Concept of Companies taught by Company Advisors), Cadet Citizenship Program and the Yearly Training Calendar. Each of these tasks was accomplished by LTC [REDACTED] during [REDACTED] consultation visits to OMI. These programs were successfully implemented at OMI at the beginning of the current school year. The YPD requests that the air travel and car rental be approved as an allowable operating expense. The YPD agrees that future consultation and training provided to the YPD military staff should be paid for directly through the YPD OMI budget.

The School Board at OMI has always been the final authority at OMI with regards to student discipline. However, the CMD YPD has always had the responsibility for implementing and enforcing the cadet code of conduct and subsequent student discipline. The YPD reimbursed OMI for a portion of the legal services because the OMI lawyer has provided legal opinions and advice to the YPD leadership at OMI on very serious student discipline matters. The YPD will ensure that OMI understands that legal services are the responsibility of the OMI Administration and that CMD reimbursement for legal services is not allowable.

The YPD concurs that the Independent Financial Audit, the School District Administrative Charges, and Unreimbursed Student Meals are expenses of the OMI School Administration. The YPD will immediately amend the current contract to ensure these unallowable operating expenses are eliminated from future OMI reimbursement requests. The YPD will develop a policy and procedures manual for reviewing and paying reimbursement contract invoices to ensure unallowable expenses are denied payment.

When OMI was initially established, the CMD YPD provided an Information Systems NCO to the academy for IT support and maintenance. During previous State budget reductions the CMD eliminated the position. The YPD reimbursed OMI for IT Maintenance because access for the YPD staff is provided via the OMI network and not the CNG network. The YPD requests that IT support and maintenance be approved as an allowable operating expense reimbursed on a pro rata basis. As mentioned previously, the YPD staff occupies 28% of the space at OMI. The YPD will utilize this figure when determining future operating expense reimbursements.

The YPD concurs that the cleaning of a cadet uniform is primarily the cadet's responsibility. However, when a cadet is dismissed from the school the uniforms are turned in. If the uniform is serviceable, the uniform is cleaned (for health reasons) before it is re-issued to another cadet. The YPD believes that cadet uniform cleaning is an allowable operating expense.



**MDIRO Recommendation:** The CMD's YPD and CMD should also review BCP language regarding the intent and nature of the operating expense categories and modify the budget line item names to reflect realistic budget categories and amounts. Provide a narrower definition of those costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations. Include a provision in the BCP language that the funding is not only limited to availability but subject to CMD approval as necessary.

YPD Response: *The YPD will immediately amend the current contract including the operating expense categories and budget line item names to reflect realistic budget categories and amounts. The YPD will utilize the previous BCP's and the revised MOU once approved as the source documents for determining the intent and nature of the operating expense categories.*

*The YPD has determined that the military staff occupies 28 percent of the facilities (12,680 sq. ft. of the total 45,814 sq. ft.) at OMI and the military staff makes up 30 percent of the total staff (19 of the total 62 personnel). The YPD will utilize this information as a basis for calculating and defining CMD obligations. The YPD will also provide a narrower definition the costs and consider limitations, exclusions or other restrictions as necessary to clearly define the CMD's obligations.*

*The YPD will ensure future MOU's include language that CMD funding is not only limited to availability but subject to CMD approval as well.*

**MDIRO Recommendation:** Immediately develop and implement a written cost allocation agreement between the CMD and OMI documenting the YPD's realistic and equitable share of OMI's operating expenses, based upon the approved funding in the most current BCP.

YPD Response: *The YPD will immediately develop and implement a written cost allocation agreement between the CMD and OMI that documents the YPD's realistic and equitable share of OMI's operating expenses, based upon approved funding in the three BCP's and revised MOU. As previously noted, the BCP's for OMI were cumulative in there scope to allow for the incremental growth of students, staff and facilities.*

**MDIRO Recommendation:** The YPD and CMD executive staff should review and revise the current reimbursement contract to ensure CMD pays its equitable share of operating expenditures as determined in the above recommendation.

YPD Response: *The CMD YPD will immediately prepare an amendment to the current contract between the CMD and OMI that clarifies and defines the CMD YPD's equitable share of allowable operating expenses.*

*Once the amendment is prepared by the YPD and approved by the Director, Joint Staff (DJS) the YPD will submit the amendment State Comptroller and Contracting Officer who will in turn forward the amendment to DGS for approval. Upon approval, the contracting officer will notify OMI that the CMD is giving 30 days notice that it has exercised the option to amend the contract to reflect a reduction of funds.*

**MDIRO Recommendation:** The YPD should review and report on the insurance coverage necessary among all of the insurance policies in effect regarding OMI, and determine whether the CMD is paying for duplicate coverage by reimbursing OMI for liability insurance premiums.



YPD Response: The YPD reimbursed OMI for liability and property insurance that covers the CMD's risk in operating the school. As stated in the audit report, the CMD and Mayor established this requirement in the original MOU between the two parties. This insurance does not cover the students at OMI nor does it cover workman's compensation. The YPD requests that the previous insurance reimbursements be approved as an allowable operating expense. The YPD agrees to notify OMI that the CMD has satisfactory liability insurance through the State of California and will no longer reimburse OMI for insurance premiums.

The YPD entered into a separate agreement for insurance at the direction of the previous CMD Executive staff. This insurance policy was established to cover the CMD's risk when OMI cadets participate in training at military installations and includes coverage for students and CMD staff. Examples of training led by CMD YPD staff include: Summer Camp, Leadership Schools, Bivouacs, Drill Competitions, etc. The YPD requests that this insurance policy be approved as an allowable operating expense.

**MDIRO Finding 2:** There is no current Memorandum of Understanding (MOU) between the CMD and OMI.

**MDIRO Recommendation:** To ensure that CMD and OMI have a complete understanding and agreement regarding the roles and functions of the military presence at the academy, an MOU should be finalized and implemented immediately.

YPD Response: The YPD provided a revised MOU to the CAAG-SJA on 18 Jan 2008 that incorporated the recommended changes the JAG requested in a previous meeting. The Revised MOU is being forwarded to MDIRO with this response for review and coordination. The Revised MOU is being forwarded simultaneously to the CMD Executive Staff for review, comment and approval. Once the MOU has been approved by CMD Executive Staff, the YPD will present the MOU to the OMI Board of Directors for review, comment and ultimately signature. The YPD estimates that MOU will be finalized within 45 days from the time the CMD Contracting Officer releases the document for signatures.

**MDIRQ Finding 3:** The YPD approved payment for OMI reimbursement billings without reviewing for mathematical accuracy and supporting documentation (vendor receipts, invoices, and/or statements).

**MDIRO Recommendation:** The YPD should immediately implement internal controls to review all reimbursement documents for mathematical accuracy as well as support documentation (invoices, statements and invoices) prior to approving payment. Additionally the YPD should develop a policies and procedures manual for reviewing and paying reimbursement contract invoices. The manual should include the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements.

YPD Response: The YPD Director and Resource Management NCO will review all reimbursement documents for mathematical accuracy and supporting documentation prior to approving payment. The YPD has developed a draft a policies and procedures manual for reviewing and paying reimbursement contract invoices that includes the process of tracing claimed expenditures to supporting invoices, cancelled checks and bank statements. The YPD draft policies and procedures manual is being submitted for review as an attachment to this response.

*To validate accuracy and compliance, the YPD requests that the State Comptroller's Office perform an annual spot check of YPD OMI reimbursement documents. The YPD will ensure both the amended contract and future contracts include the requirement to submit support documents along with the invoices.*

**MDIRO Finding 4: The CMD may have made duplicate payments to a CaCC member.**

**MDIRO Recommendation:** The YPD should investigate the possible duplicate payment to the CaCC member and advise the CMD management when and how the issue is resolved.

YPD Response: *No, duplicate payment was made. The individual CaCC instructor used personal leave time from OMI to perform duties for the CaCC in preparation of the Individual Major Award's competition and ceremony being conducted in Sacramento.*

**MDIRO Finding 5: The YPD is not exercising sufficient controls over computer equipment purchased with state funds.**

**MDIRO Recommendation:** The YPD should implement procedures to ensure that computer equipment is properly stored disposed of, and access restricted to military cadre program personnel and authorized users.

YPD Response: *The YPD OMI military leadership and logistics NCO have completed a 100% inventory of the CMD YPD computer equipment and reconciled the inventory with the property book ensuring each computer is accurately accounted for. In addition, the logistics NCO has updated all computer equipment hand receipts with the authorized users. Each laptop is now secured with a laptop lock/cable for added security IAW CNG directive. The computers at OMI are not linked to the CNG network. There are computers that belong to the school through school purchases or donations that are awaiting disposition through an electronic waste/recycling center, but there are no CMD YPD computers awaiting disposition. The IT room is a secure work space with controlled access. The YPD leadership will ensure periodic formal and informal inspections are performed to ensure the computer equipment is properly safeguarded.*





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***Finding 1- A            Civilian Personnel Hired in Lieu of SAD Personnel***

The Military Department Internal Review Office (MDIRO) disagrees with the Youth Program Directorate's (YPD) response. The YPD suggests that due to budget reductions, the intent of the personal services contract between the California Military Department (CMD) and the Oakland Military Institute (OMI) was to enhance the military science curriculum in the area of character development. The YPD believes that the personnel costs are allowable because the funding was expended in compliance with the original Budget Change Proposal (BCP) based on the following:

- To provide the best possible military science curriculum taught by the best qualified instructors.
- The level of experience working with youth in a public school setting is not typically achieved via the State Active Duty (SAD) open announcement system.
- The California Cadet Corp (CaCC) Officers possessed the Designated Subjects Teaching Credential for Basic Military Drill which allowed the cadets to receive High School credit for their military science and physical education classes.
- At OMI start up, the CMD through the BCP process (2000-01 and 2002-03) provided extensive administrative and technical support to OMI.
- The administrative and technical support operating expense complies with the original legislative intent and the amount reimbursed is less than the cost of the eight CMD YPD personnel previously approved by the legislature through the BCP process.

The YPD further states that they coordinated internally with the Comptrollers Office to establish personal services contracts. The YPD also coordinated with the CMD's State Personnel and the Staff Judge Advocate (CAAG-SJA) office to hire CaCC personnel.

As stated in the MDIRO's finding, the only personnel funded in the CMD's YPD budget, and approved by the Legislature, to teach at OMI were SAD military Soldiers. The MDIRO's disagreement with the YPD's use of the personal services contracting process, to reimburse OMI for civilian and CaCC educators is based on Government Code (GC) 19130(b)(10) (and its supporting justification), which states:

"...such contracting is permissible if the services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose. Justification: Therefore, these provisions are not to be applied to expansions of existing programs or displacement of state full time equivalent employees..."

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The fact that there was a reduction in funding and subsequent staffing in military SAD cadre did not constitute the YPD procuring contacts under GC 19130 (b) (10).

The MDIRO finds that there was no "urgent" need, nor was it necessary for the immediate preservation of life or state property.

Further, based on the documentation reviewed, the MDIRO believes that the personal services contracts were procured to expand the existing Character Education program and did not meet the requirements of GC 19130(b) (10). As discussed on page 15 of 25 of the draft audit report, the OMI Board of Directors' minutes dated September 21, 2005, highlighted the new course work added by the OMI Superintendent (for fiscal year 2005/06) and activities to "improve the educational experience", which included "an expanded character education program." In the future, the MDIRO believes that rather than coordinating with offices internally to establish personal services contracts, the YPD should have coordinated with CMD's Comptrollers Office to develop a Budget Change Proposal to propose new program activities/expansion not authorized. Based on the above, the cost remains unallowable.

***Personal Services Contract Amendment***

The MDIRO has reviewed the current contract between the CMD and OMI and has provided input to the draft for consideration in the final contract document. The MDIRO shall provide a separate document outlining the suggested changes at a later date.

***Finding 1-B                    OPERATING EXPENSES***

***Facilities Cleaning and Utilities***

The MDIRO commends the YPD for developing a pro rata share system to determine future operating expenses for utilities and facilities maintenance and cleaning.

The MDIRO acknowledges that the subsequent BCP requests were set up to include incremental increases to the baseline established at OMI's inception. However, the BCP funding requests each year, in addition to requesting personnel, asked for increases in operating expenses "in support of the military staff", which included the facilities cleaning and maintenance costs.



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The MDIRO will recognize the 28 percent allocation rate for military cadre occupied space, which would allow \$36,059.08 in facilities cleaning and maintenance costs and \$33,045.98 in allowable utilities costs. The difference remaining in facilities cleaning of \$92,723.35 and in utilities of \$84,975.38 would still be unallowed.

**Security Systems**

In the draft report, the MDIRO relied upon the intent of prior BCP justifications that facility costs, with the exception of cleaning and maintenance in support of the military cadre, would be borne by the City of Oakland. Based on the 28 percent space allocation rate provided by the YPD, the MDIRO would allow \$658.58 for the security system ( $\$2,352.07 \times .28 = \$658.58$ ) and disallow the remaining balance of \$1,693.49.

**Sports Equipment, Supplies and Related Costs**

The YPD requests that the MDIRO allow the sports equipment and related costs for the OMI cadets based on the original letter of intent and the parent student handbook. As discussed in the audit report, the letter of intent expired on June 30, 2001. Further, as stated in the draft audit report, according to the BCPs, the cadets would receive physical education in terms of personal wellness, physical training, diet, and nutrition. The physical fitness training included intramural sports and is addressed in OMI's charter as an extracurricular class under the Academic Excellence section. The MDIRO's finding remains that the YPD expended funds beyond the scope of the BCP and the physical education requirements set forth and addressed in the school's 2004 Charter, which expires in August 2009.

**Bus Rental**

The MDIRO acknowledges the YPD's response and the additional information provided for the costs of one bus rental. The MDIRO accepts the bus rental expense of \$1,472.50 for the Oakland Athletics opening ceremonies where the OMI's cadets unfurled the flag. The unallowable costs for bus rental expense have been revised to \$4,378.25.

**Insurance Premiums**

Based on the fact that the State of California is self-insured, reimbursement to OMI for the blanket general liability insurance premiums is still unallowed. The report states that the CMD reimbursed OMI for \$30,336.79 for insurance premiums classified as an "umbrella and business owner's policy". However, to clarify, the MDIRO did not disallow the direct billing insurance premiums of \$6,312.56 (\$4,312.56 in FY 2005/06 and \$2,000.00 in FY 2006/07).



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The MDIRO acknowledged that the original MOU included insurance coverage for both parties; however, on the surface this would appear to be duplicate coverage for the CMD. The MDIRO believes that the CMD would benefit from a clearer understanding of the insurance coverage provided to state agency operations and what additional coverage, if any, should be purchased separately. As stated in the draft report, the MDIRO recommended that the YPD review and report on the issues surrounding the insurance coverage. Specifically, the YPD should determine: 1) what the State's self-insurance policy covers when agreements are made between a state agency and a local government, and 2) what special or additional coverage must be obtained by an agency, such as the case of students performing exercises, drills, and other activities on state property.

**Legal Services**

As stated on page 20 of 25 of the draft report, the OMI's Charter dated August 2004, states that the student discipline policy falls under the umbrella of the school administration. Therefore the legal services fees are not allowed.

**Travel Costs**

The YPD's assertion that [REDACTED] was "serving as a consultant to the CMD YPD" is not supported.

**Independent Financial Audit**

The YPD concurs with this finding.

**School District Administrative Charges**

The YPD concurs with this finding.

**Unreimbursed Meals**

The YPD concurs with this finding.

**Information Technology Maintenance**

As stated in the report, the CMD reimbursed the OMI \$9,627 for IT technicians and maintenance services. In regard to the allocation rate of 28% claimed by YPD, the MDIRO recognizes the allocation rate for the Military Cadre's share of the IT support and maintenance, however, the difference of \$6,927.24 is in greater than 28% and is unallowable.

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**Uniform Cleaning**

The MDIRO reviewed the additional information provided in the YPD's response. Based on this information, the MDIRO accepts \$882.00 as allowable uniform cleaning expenses.

**Budget Change Proposal Language**

As recommended in the draft audit report, the CMD's YPD and CMD executive staff should review the future BCP language regarding the intent and nature of if the operating expense categories and modify the budget line item names to reflect realistic budget categories and amounts. Specifically, the YPD should work with the Comptroller's Office to revise, omit, and/or modify any budget line items currently displayed in the CALSTARS reports (Q12s), which do not accurately represent an equitable share of CMD's obligation, as well as complete an Allotment Revision Request(s) to reflect the changes.

**Cost Allocation**

The MDIRO believes that incorporating the cost allocation language within the MOU as well as the contract services agreement is sufficient to satisfy this part of the recommendation. However, the MDIRO emphasizes that this same language be included in any pending or future BCPs written with regard to the YPD OMI budget. Additionally, the YPD should review and modify as often as necessary, but not less than annually, to ensure the cost allocation percentages adequately reflect the CMD's personnel staffing and use of physical space at OMI.

**Finding 2      Memorandum of Understanding**

The MDIRO has reviewed and made comments to the draft MOU, which will be provided to the YPD and executive staff under separate cover.



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***Finding 3     OMI Reimbursement Billings***

The MDIRO concurs with the YPD's proposed actions to require the YPD Director and Resource Management NCO to ensure that adequate support documentation is maintained. All reimbursement documents (invoices, OMI's Reimbursement Package, etc.) will be reviewed for mathematical accuracy and supporting documentation prior to approving payment. The MDIRO provided technical assistance to the YPD in preparing the Standard Operating Procedures (SOP) and acknowledges receipt of the draft SOP for review. It is recommended that the YPD review the SOP to ensure that the process is adequately documented to exercise proper management oversight and internal controls. The procedures should also include:

- Applicable program criteria;
- Appropriate steps for proper segregation of duties; and
- Completion of the Certification Statement in the Reimbursement Request Form.

***Finding 4     CaCC Member Duplicate Payment***

The MDIRO acknowledges the YPD's response and requests that copies of the approved leave time and the documentation relative to the duties performed by the CaCC member on May 10 and 11, 2007 be forwarded as soon as possible.

***Finding 5     Equipment***

The MDIRO does not dispute the computer equipment inventory and property book condition. To reemphasize the audit finding which states that the YPD is not exercising sufficient controls over computer equipment purchased with state funding. Specifically, "Laptop computers were located in non-program related classrooms (i.e. art, special education, trigonometry, etc.) and numerous outdated computers were found in a storage room awaiting disposal. Additionally, several laptop computers purchased in calendar year 2006 were found scattered on counters and shelves and not properly safeguarded within OMI's Information Technology Office."





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**UNALLOWABLE COSTS SUMMARY**

<i>UNALLOWED COSTS CATEGORY</i>	<i>DRAFT REPORT UNALLOWED COST</i>	<i>ADJUSTMENTS (ALLOWED COSTS)</i>	<i>FINAL REPORT UNALLOWED COSTS</i>
<b>PERSONNEL COSTS:</b>			
Civilian Personnel Hired in Lieu of SAD	\$ 738,785.32	- \$	738,785.32
<b>TOTAL</b>	\$ 738,785.32	- \$	738,785.32
<b>OPERATING COSTS:</b>			
Facilities (Cleaning, Maintenance, Utilities)	\$ 246,803.79	(69,105.06) \$	177,698.73
Security	\$ 2,352.07	(658.58) \$	1,693.49
Sports Equipment	\$ 22,276.16	- \$	22,276.16
Bus Rental	\$ 5,850.75	(1,472.50) \$	4,378.25
Insurance Premiums	\$ 30,366.79	- \$	30,366.79
Travel: Air Fare and Car Rental Expenses	\$ 3,413.65	- \$	3,413.65
Legal Services	\$ 22,358.40	- \$	22,358.40
Independent Auditor's Report	\$ 14,000.00	- \$	14,000.00
School District Administration Fee	\$ 5,144.00	- \$	5,144.00
Unreimbursed Meals	\$ 12,280.42	- \$	12,280.42
IT Maintenance	\$ 9,621.17	(2,693.93) \$	6,927.24
Uniforms (Cleaning)	\$ 882.00	(882.00) \$	-
<b>TOTAL</b>	\$ 375,349.20	(74,812.07) \$	300,537.13
<b>TOTAL AMOUNT</b>	\$ 1,114,134.52	(74,812.07) \$	1,039,322.45